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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/342,719	06/29/1999	DONALD C. ROE	7590Q	6995

27752 7590 12/27/2002

THE PROCTER & GAMBLE COMPANY
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EXAMINER

ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/342,719

Applicant(s)

ROE ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-32, 34-37, 40-44, 47-49 and 58-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-32, 34-37, 40-44, 47-49 and 58-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

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DETAILED ACTION

Response to Arguments

Applicant's arguments filed 07 October 2002 have been fully considered but they are not persuasive. In response to applicant's argument based upon the age of the references, the subject matter disclosed in the claims is not disclosed in U.S. Patent 5,957,906, filed 14 November 1997, of which the instant application is a continuation-in-part. U.S. Patent 5,957,906 does not disclose a Waste Contamination Area or a Waste Contamination Mass, and therefore these limitations cannot claim priority to the date of 14 November 1997.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 28-32, 34-37, 40-44, 47-48, and 58-60 are rejected under 35 U.S.C. 102(e) as being anticipated by McIver et al. (6,066,673).

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With respect to claims 28 and 58, McIver discloses a disposable article adapted to be worn by a wearer, as described in the abstract, comprising one or more compositions for enhancing the removability of fecal waste from the skin of a wearer. The one or more compositions are available to at least a portion of one of said fecal waste and said skin of said wearer, and said disposable article is a diaper, as described in column 58, lines 6-9. The one or more compositions provide one or more of the following as determined by the test methods set forth in the instant specification: (a) a Waste Contamination Area of less than about 15 cm²; and (b) a Waste Contamination Mass of less than about 14 mass units, as described in column 75, lines 29-37. McIver discloses, in column 75, lines 29-37, the incorporation of carboxymethyl cellulose into the cover of an absorbent article, which, as disclosed on page 55 of the instant specification, yields the claimed test results. The absorbent article of McIver therefore fulfills all claimed limitations.

With respect to claims 29-32 and 40-42, McIver discloses, in column 75, lines 29-37, the incorporation of carboxymethyl cellulose into the cover of an absorbent article, which, as disclosed on page 55 of the instant specification, yields the claimed test results. The absorbent article of McIver therefore fulfills all claimed limitations.

With respect to claims 43 and 44, McIver discloses, in column 58, line 62 through column 59, line 14, an ionic complexing agent such as zinc oxide.

With respect to claims 34 and 59, McIver discloses, in column 4, line 10 through column 6, line 35, an effective concentration of a feces modifying agent.

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With respect to claims 35-37 and 60, McIver discloses, in column 58, line 25 through column 59, line 39, a skin care composition such as petrolatum.

With respect to claims 47 and 48, McIver discloses, in column 58, lines 25-53 and column 69, line 53 through column 71, line 5, a feces modifying agent disposed on the article as an individual discrete element.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

UA
cla

December 19, 2002


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700